

§ 109.7

hazardous material, an agent will utilize appropriate alternatives before exercising an authority under paragraph (a) of this section.

[76 FR 11592, Mar. 2, 2011, as amended at 78 FR 60763, Oct. 2, 2013]

§ 109.7 Removal from transportation.

An agent may remove a package and related packages in a shipment or a freight container from transportation in commerce for up to forty-eight (48) hours when the agent has an objectively reasonable and articulable belief that the packages may pose an imminent hazard. The agent must record this belief in writing as soon as practicable and provide written notification stating the reason for removal to the person in possession.

§ 109.9 Transportation for examination and analysis.

(a) An agent may direct a package to be transported to a facility for examination and analysis when the agent determines that:

(1) Further examination of the package is necessary to evaluate whether the package conforms to subchapter C of this chapter;

(2) Conflicting information concerning the package exists; or

(3) Additional investigation is not possible on the immediate premises.

(b) In the event of a determination in accordance with paragraph (a) of this section, an agent may:

(1) Direct the offeror of the package, or other person responsible for the package, to have the package transported to a facility where the material may be examined and analyzed;

(2) Direct the packaging manufacturer or tester of the packaging to have the package transported to a facility where the packaging may be tested in accordance with the HMR; or

(3) Direct the carrier to transport the package to a facility capable of conducting such examination and analysis.

(c) The 48-hour removal period provided in §109.7 may be extended in writing by the Administrator pending the conclusion of examination and analysis under this section.

49 CFR Ch. I (10–1–15 Edition)

§ 109.11 Assistance of properly qualified personnel.

An agent may authorize properly qualified personnel to assist in the activities conducted under this part if the agent is not properly qualified to perform a function that is essential to the agent's exercise of authority under this part or when safety might otherwise be compromised by the agent's performance of such a function.

§ 109.13 Closing packages and safe resumption of transportation.

(a) *No imminent hazard found.* If, after an agent exercises an authority under §109.5, the agent finds that no imminent hazard exists, and the package otherwise conforms to applicable requirements in subchapter C of this chapter, the agent will:

(1) Assist in preparing the package for safe and prompt transportation, when practicable, by reclosing the package in accordance with the packaging manufacturer's closure instructions or other appropriate closure method;

(2) Mark and certify the reclosed package to indicate that it was opened and reclosed in accordance with this part;

(3) Return the package to the person from whom the agent obtained it, as soon as practicable; and

(4) For a package containing a perishable hazardous material, assist in resuming the safe and expeditious transportation of the package as soon as practicable after determining that the package presents no imminent hazard.

(b) *Imminent hazard found.* If an imminent hazard is found to exist after an agent exercises an authority under §109.5, the Administrator or his/her designee may issue an out-of-service order prohibiting the movement of the package until the package has been brought into compliance with subchapter C of this chapter. Upon receipt of the out-of-service order, the person in possession of, or responsible for, the package must remove the package from transportation until it is brought into compliance.

(c) *Package does not contain hazardous material.* If, after an agent exercises an authority under §109.5, the agent finds